the decree amount. Now this is not done. It is prayed that the former practice of including these costs in the decrees may be brought into force.

Reply of Government.—Will be considered.

SUBJECT No. 40.

Record of confessions by Amildar Magistrates.

Mr. K. S. Santanam Iyengar, Closepet municipality.

Summary of discussion.—It is highly unsatisfactory and against the spirit of the Criminal Procedure Code that the Amildar Magistrates who are Heads of Police in their taluks should be empowered to record confessions. It is prayed that Section 164 of the Criminal Procedure Code may be modified so as to conform with the provisions on the subject in the British Code, where only Magistrates who are not Police Officers are empowered to record confessions.

Mr. Santanam Iyengar stated that even if the confession is recorded by a neighbouring Amildar, he is likely to be prejudiced in favour of the Police, and suggested that 1st Class Magistrates alone should record confessions.

Reply of Government.—Will be considered favourably.

SUBJECT No. 41.

Restoration of the old rule making it obligatory on the part of the son to prove that the debt made by his deceased father was not for the benefit of the family.

Messrs. Gundappa, Mysore District Board, and V. Raghavachar, Pavagada taluk.

Summary of discussion.—Of late it has been decided by the Chief Court that the burden of proving that the debts contracted by the father is for the benefit of the family or otherwise, is upon the creditor and not upon the son as hitherto in force.

This has caused great inconvenience in respect of money dealings, trade, agriculture, etc. Further the object to be realized by the Economic Conference will be frustrated. It is therefore requested that the law hitherto in force may be restored as it does much good to the country.

Reply of Government.—The decision of the Chief Court is not in any way revolutionary so as to necessitate the undertaking of legislation in the matter.

SUBJECT No. 42.

(*a*) Upholding the doctrine "once a mortgage is always a mortgage" or introduction of Transfer of Property Act into Mysore.
(*b*) Conditional sale.

(*a*) Mr. S. Ramanna, Hassan municipality.
(*b*) Mr. M. Subba Rao, Hassan District Board.

Summary of discussion.—(*a*) The equitable doctrine "once a mortgage is always a mortgage till the same is determined by act of parties or by order of Court" is the law as administered in British India for a long series of years even before and after the introduction of Transfer of Property Act in 1882. In all mortgage transactions the same principle has been followed and acted upon by the people hitherto in our Province.

But the recent decision of our Hon'ble Chief Court of Mysore in Venkataramaiya *vs.* Amba Bayi reported on page 136 of XVII, Chief Court Reports, Mysore, is to the effect that no such law exists in Mysore. By reason of this decision, if a mortgagor makes a stipulation in the deed that he would redeem the mortgage within a time and fails so to redeem the property covered in the deed

may be considered as sold for the mortgage debt, the mortgagor cannot redeem the mortgage. The lender will have the upperhand and the debtor may lose all his property for a small debt. So, it is prayed, that the Transfer of Property Act of 1882 may be introduced into the Mysore State.

(*b*) Though the Transfer of Property Act is not in force in Mysore, its principles are being followed here in several instances. Conditional sales which were hitherto not in force and which are never enforced in British India up to this day, are being now enforced in the courts of the Province since the decision of the case reported in Mysore Chief Court Reports, Vol. XVII, page 136. The stipulations as regards conditional sales in mortgage deeds, if allowed, will become very oppressive to the poor and will deprive them of valuable properties for very low sums. It is therefore submitted that the law in this respect in Mysore should be brought into conformity with that obtaining in British India as laid down in the Transfer of Property Act, and all clog on the equity of redemption removed.

Reply of Government.—Will be considered.

SUBJECT NO. 43.

Exemption of court fee for succession certificates.

Mr. C. Krishnamurti, Law Association, Bangalore.

Summary of discussion.—Applications for succession certificates of values less than one thousand rupees may be exempted from court fees.

Reply of Government.—Government are not prepared to change the rule.

SUBJECT NO. 44.

Revision of Civil Court Rules.

Mr. M. K. Krishnamurti Rao, Magadi taluk.

Summary of discussion.—The existing system in the civil court entails great difficulty on the people in getting back the balances of witness battas tendered by them and obtaining judgment copies.

Rules may therefore be framed on the following lines to remedy these and other evils:—

1. The issue of cheques to taluk treasuries in favour of persons to whom amounts are due.

2. The same in cases of *ex-parte* decrees and compromises.

3. Return of documents by registered post, the required fees being recovered from the parties.

4. The stationing of process servers in taluks instead of at the headquarters.

Mr. M. K. Krishnamurti Rao.—It is difficult to get balances of batta amount, etc., by parties. Either the amounts lapse or they are received by lawyers and never reach the parties. The amounts should be included in the decrees and cheques issued to the parties.